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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
In re:

Chapter 11

BH SUTTON MEZZ LLC, a Delaware Limited  
Liability Company,  
SUTTON 58 OWNER, LLC, a Delaware Limited  
Liability Company, and  
SUTTON 58 OWNER, LLC, a New York Limited  
Liability Company,

Case No.: 16-10455 (SHL)  
(Jointly Administered)

Debtors.

-----X

**NOTICE OF TRANSCRIPT OF AUCTION SALE**

**PLEASE TAKE NOTICE** that the attached is a true and accurate copy of the transcript  
of the public auction sale conducted by the Debtors on December 13, 2016.

Dated: January 13, 2017

Wantagh, New York

**LaMONICA HERBST & MANISCALCO, LLP**

Counsel to the Debtors

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Holly R. Holecek, Esq.  
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**ORIGINAL**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - -X

In re:

BH SUTTON MEZZ LLC, a Delaware Limited  
Liability Company,  
SUTTON 58 OWNER LLC, a Delaware Limited  
Liability Company, and  
SUTTON 58 OWNER LLC,  
a New York Limited Liability Company,

Debtors.

Chapter 11

Case No. 16-10455-(SHL)  
(Jointly Administered)

- - - - -X

Meridian Capital  
800 3rd Avenue - 38th Floor  
New York, New York 10022

December 13, 2016  
11:48 a.m.



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2 A P P E A R A N C E S:

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LaMONICA HERBST & MANISCALCO, LLP  
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HOLLY R. HOLECEK, ESQ.

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NATAN HAMMERMAN, ESQ.  
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Attorneys for Official Committee  
of Unsecured Creditors  
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Uniondale, New York 11556  
BY: THOMAS A. DRAGHI, ESQ.

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STANLEY K. SCHLEIN, ESQ.  
481 Ring Avenue  
Bronx, New York 10464

17

18

JOSEPH BENINATI, BH Sutton bankruptcy  
estate representative  
(By telephone)

19

20

BAUHOUSE GROUP  
134 West 26th Street - Suite 605  
New York, New York 10001  
BY: CHRIS JONES

21

22

505 PARK AVENUE  
New York, New York 10022  
BY: VAN NGUYEN

23

24

JOHN ILLUZZI

25

(Appearances continued on next page)



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2

LICHTENBERG PLLC

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PAUL HASTINGS, LLP

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Attorney for Gemini Residential  
200 Park Avenue  
New York, New York 10166  
BY: HARVEY A. STRICKON, ESQ.

8

9

GAMMA REAL ESTATE

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101 Park Avenue - Suite 2602  
New York, New York 10178

11

BY: JONATHAN KALIKOW, President  
N. RICHARD KALIKOW

12

13

JONES LANG LaSALLE

14

330 Madison Avenue  
New York, New York 10017  
BY: KEITH KURLAND, Managing  
Director, Capital Markets

15

16

CORNELL REALTY MANAGEMENT, LLC

17

75 Huntington Street  
Brooklyn, New York 11231  
BY: ISAAC HAGER

18

19

MERIDIAN INVESTMENT SALES

20

800 Third Avenue - 38th Floor  
New York, New York 10022

21

BY: LIPA LIEBERMAN,  
Managing Director  
ABIE KASSIN, Director  
DAVID SCHECHTMAN  
TAL BAR-OR

22

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1 BH Sutton Chapter 11 Auction

2 MR. MANISCALCO: We are ready to start  
3 the auction process now. Everybody who is in  
4 the room make sure you provide your notice of  
5 appearance with the court reporter. If you  
6 haven't, please raise your hand and step out.  
7 On the phone we have Joseph Beninati, who is  
8 still the estate representative for the  
9 bankruptcy estates of BH Sutton Mezz. Mr.  
10 Beninati, are you there?

11 MR. BENINATI: Yes, sure.

12 MR. MANISCALCO: We are going to start  
13 the auction. I do have terms and conditions  
14 that are signed by what I called Sutton lender  
15 or the Calico Group. Is that okay, Mr. Rogoff?

16 MR. ROGOFF: For the record, Sutton 58  
17 Associates LLC, you can refer to them as the  
18 Sutton lender or just the lender.

19 MR. MANISCALCO: I have the executed  
20 terms and conditions by them. I also have  
21 executed terms and conditions of Cornell Realty  
22 Management LLC. We also have with us both  
23 brokers. David Schechtman is here on behalf of  
24 Meridian and Keith Kurland on behalf of Jones  
25 Lang LaSalle.



1 BH Sutton Chapter 11 Auction

2 Before we proceed, I have -- I'm going  
3 to read into the record exactly what we are  
4 selling today. This is in connection with the  
5 three bankruptcy estates that are pending in the  
6 United States Bankruptcy Court for the Southern  
7 District of New York. I'm not going to read all  
8 of the terms and conditions, which are eight  
9 pages, which are executed, but the record should  
10 be clear as to precisely what it is that we are  
11 selling today.

12 The following terms of sale shall  
13 govern the sale of the following assets: The  
14 assets that are being sold are the real  
15 properties located at and known as 428, 430 and  
16 432 East 58th Street, New York, New York, 10022  
17 and all zoning and development rights owned by  
18 or available to the debtors and/or to which the  
19 debtors have a right, title and interest in,  
20 including the rights, licenses, easements and  
21 other agreements contained in those certain  
22 agreements with the owners of 426 East 58th  
23 Street, New York, New York, Lot 36, including  
24 certain construction license agreements and the  
25 right to thirteen thousand one hundred



1 BH Sutton Chapter 11 Auction

2 eighty-five square feet of unused development  
3 rights.

4 Number two, 422 East 58th Street, New  
5 York, New York, Lot 37, including the right to  
6 twenty-one thousand seven hundred fifty square  
7 feet of unused development rights.

8 Number three, 434 and 436 East 58th  
9 Street, New York, New York, Lots 31 and 33,  
10 including certain construction licenses and the  
11 right to thirty-three thousand four hundred  
12 forty-two square feet of unused development  
13 rights.

14 Number four, 440 East 58th Street, New  
15 York, New York, Lot 30, including the right to  
16 thirteen thousand five hundred fifty-six square  
17 feet of unused development rights.

18 Number five, 442 East 58th Street, New  
19 York, New York, Lot 129, including the right to  
20 sixteen thousand two hundred sixty-seven square  
21 feet of unused development rights.

22 Number six, 444-446 East 58th Street,  
23 New York, New York, Lot 29, including the right  
24 to twenty-two thousand five hundred eighty-three  
25 square feet of unused development rights.



1 BH Sutton Chapter 11 Auction

2 Number seven, 461 East 58th Street,

3 New York, New York, Lot 20 -- East 57th Street,

4 I apologize, New York, New York, Lot 22,

5 including the right to twenty-three thousand

6 four hundred twenty-eight square feet of unused

7 development rights.

8 And number eight, 455 East 57th

9 Street, New York, New York, Lot 19, including

10 the right to use such property as a pass-through

11 to allow for the acquisition of unused

12 development rights from 461 East 57th Street,

13 New York, New York, and with Gemini Residential,

14 LLC, including the right to fifty-seven thousand

15 seven hundred fifteen square feet of

16 inclusionary development rights pursuant to that

17 certain inclusionary air rights purchase

18 agreement dated January 20, 2015.

19 Those are the assets that we are

20 selling. The sale is being made pursuant to a

21 Chapter 11 plan of liquidation, which was filed

22 in connection with that bankruptcy case by the

23 committee of unsecured creditors and Sutton 58

24 Associates. The debtor's Chapter 11 bankruptcy

25 cases are being jointly administered under the





1 BH Sutton Chapter 11 Auction  
2 United States Bankruptcy Court for the Southern  
3 District of New York.

4 The sale of the assets is being  
5 conducted pursuant to Bankruptcy Code sections  
6 363(b), (d), (f), (k) and (m) and is subject to  
7 confirmation of the Chapter 11 plan that was  
8 filed.

9 For the record, the buyer and the  
10 official committee of unsecured -- apologize,  
11 for the record, Sutton 58 Associates and the  
12 official committee of unsecured creditors  
13 appointed in the Chapter 11 cases have jointly  
14 proposed and filed a joint Chapter 11 plan of  
15 liquidation dated November 14, 2016 as modified  
16 on November 22, 2016 and supplemented on  
17 December 5, 2016 and the sale conducted today is  
18 pursuant to that plan of liquidation without any  
19 material modification, and under that plan there  
20 is currently a confirmation hearing scheduled  
21 for January 11, 2017, eleven a.m. and that joint  
22 plan that was filed also provides for a lender  
23 contribution of potentially four point eight  
24 million dollars.

25 Mr. Beninati, have you listened to all



1 BH Sutton Chapter 11 Auction

2 the terms and conditions and everything that we  
3 are currently selling?

4 MR. BENINATI: Yes, I have, Joe.

5 MR. MANISCALCO: Is there any  
6 modification that you would like to make?

7 MR. BENINATI: Not that I'm aware of.

8 MR. MANISCALCO: For the record, I  
9 have received two bids. The first bid that I  
10 received was a bid from Cornell Realty  
11 Management, which is a bid for sixty-seven  
12 million two hundred one thousand dollars. Plus  
13 the buyer's premium of one point one seven five  
14 percent. Plus the assumption of the obligations  
15 under the Fisher contract. Plus the assumption  
16 of the obligations under the 434 contract. Plus  
17 the obligations under the 426 contract.

18 I then received a bid from Sutton 58  
19 Associates in the amount of eighty million  
20 dollars, utilized as a credit bid, which is  
21 authorized under the Bankruptcy Code and order  
22 and decision of the Bankruptcy Court. The  
23 eighty million dollars is a net bid and includes  
24 plus one point one seven five percent buyer's  
25 premium. Plus the Fisher contract. Plus the



1 BH Sutton Chapter 11 Auction

2 434 contract. Plus the 426 contract.

3 Both bidders are here. Did I  
4 accurately describe the bids that have been  
5 presented to us?

6 MR. ROGOFF: Adam Rogoff, Kramer Levin  
7 on behalf of the lender. The only thing I  
8 haven't done the math on, but the order speaks  
9 for itself, there is an order appointing the  
10 brokers in this case. There are provisions  
11 relating to what the buyer premium would be,  
12 depending upon if it's a transaction third party  
13 or credit bid transaction. We simply  
14 acknowledge that our bid, our eighty million  
15 dollar bid that we put in is also on top of that  
16 eighty million dollar credit bid is the payment  
17 of the buyer's premium obligations as it relates  
18 to the lender under the retention orders,  
19 as well as the assumption of obligations under  
20 various agreements.

21 MR. MANISCALCO: Cornell Realty, have  
22 I described what your bid was presented prior to  
23 the hearing?

24 MR. HAGER: Yes.

25 MR. MANISCALCO: What I currently have



1 BH Sutton Chapter 11 Auction  
2 is both bids are substantially similar bids.  
3 Sutton 58 Associate's bid is for eighty million  
4 dollars. I would go to Cornell Realty  
5 Management. Both bidders that are here, if at  
6 any time during the process you want to take a  
7 break and speak to anybody, we can take a break.  
8 However, you're not going to take a break right  
9 now because the first bid is eighty-one million  
10 dollars. Do I have an eighty-one million dollar  
11 bid by Cornell Realty Management?

12 MR. HAGER: Isaac Hager. Yes.

13 MR. MANISCALCO: Leaving the same  
14 conditions that I previously set on the record,  
15 my next bid goes to Sutton 58 Associates. Do I  
16 have an eighty-two million dollar bid by Sutton  
17 58 Associates?

18 MR. ROGOFF: You will have an  
19 eighty-two million dollar bid. Let me also say  
20 for the record, in addition to the terms and  
21 conditions that we acknowledged the receipt of,  
22 the lender has submitted a credit bid agreement  
23 dated December 9, 2016. That credit bid  
24 agreement is as defined consistent with the  
25 joint plan that Mr. Maniscalco referred to



1 BH Sutton Chapter 11 Auction

2 earlier.

3 The joint plan, now dated December 5,  
4 2016, in Section 2 of our credit bid agreement  
5 there is a reference to credit bid in the amount  
6 of eighty million dollars and the lender will  
7 amend Section 2 to increase its credit bit from  
8 eighty million dollars to eighty-two million  
9 dollars. All other terms and conditions in our  
10 credit bid agreement remain the same.

11 By the way, just for the sake of the  
12 record, that statement that I just made will  
13 apply to any subsequent bidding as well.

14 MR. MANISCALCO: Thank you very much.  
15 I have an eighty-two million dollar bid by  
16 Sutton 58 Associates. My next bid is going to  
17 go to eighty-three million dollars. Do I have  
18 an eighty-three million dollar bid by Cornell  
19 Realty Management?

20 MR. HAGER: Yes.

21 MR. MANISCALCO: I'm going to go back  
22 to Sutton 58 at this point, and do I have an  
23 eighty-four million dollar bid by Sutton 58  
24 Associates?

25 MR. ROGOFF: The lender will increase



1 BH Sutton Chapter 11 Auction

2 its credit bid to eighty-four million dollars.

3 MR. MANISCALCO: I'm going to go to an  
4 eighty-five million dollar bid. Do I have an  
5 eighty-five million dollar bid by Cornell  
6 Realty?

7 MR. HAGER: Yes.

8 MR. MANISCALCO: I'm going to go to  
9 eighty-six. Do I have an eighty-six million  
10 dollar bid by Sutton 58 Associates?

11 MR. ROGOFF: The lender will increase  
12 its credit bid to eighty-six million dollars.

13 MR. MANISCALCO: From here I'm going  
14 to go an eighty-seven million dollar bid. Do I  
15 have an eighty-seven million dollar bid by  
16 Cornell Realty?

17 MR. HAGER: No.

18 MR. MANISCALCO: Currently what I have  
19 is an eighty-six million dollar bid by Sutton 58  
20 Associates. The next bid is an eighty-seven  
21 million dollar bid. Do I have eighty-seven  
22 million dollars by anyone looking to bid higher  
23 than the eighty-six million dollar bid that we  
24 currently have? I haven't heard anything.  
25 Going once, going twice.



1 BH Sutton Chapter 11 Auction

2 Cornell Realty, would you like to  
3 increase your bid higher than your eighty-five  
4 million dollar bid.

5 MR. HAGER: No.

6 MR. MANINSCALSCO: At this point, I  
7 don't have any other bids. I have going once,  
8 going twice. I'm going to recommend to the  
9 debtor that we stop the bidding at eighty-six  
10 million dollars. I have debtor's representative  
11 on the phone. Mr. Beninati, are you there?

12 MR. BENINATI: Yes, I am.

13 MR. MANISCALCO: Have you heard the  
14 bids?

15 MR. BENINATI: I have heard them all.

16 MR. BENINATI: Mr. Beninati, do you  
17 agree to stop the bidding at this point,  
18 eighty-six million dollar bid to Sutton 58  
19 Associates?

20 MR. BENINATI: Yeah.

21 MR. MANISCALCO: That is it. The  
22 bidding is closed. Going once, going twice, the  
23 bidding is done at this point. Anything from  
24 the creditors' committee?

25 MR. DRAGHI: No, we have a successful



1 BH Sutton Chapter 11 Auction

2 bidder which has been presented to the court,  
3 which is Sutton 58 Associates and a backup  
4 bidder of Cornell Realty Management.

5 MR. ROGOFF: The auction is now  
6 closed. At this point, no one else submitted  
7 any other competing or higher bid.

8 MR. MANISCALCO: The auction is  
9 closed. Mr. Rogoff, your client is the highest  
10 bidder. At this point, I will close out the  
11 record. Mr. Beninati, I'm going to disconnect  
12 you. Thank you very much.

13 (Time noted: 12:08 p.m.)  
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CERTIFICATION

STATE OF NEW YORK)

)

ss:

COUNTY OF SUFFOLK)

I, JUDI GALLOP, a shorthand reporter  
and Notary Public within and for the State of  
New York, do hereby certify that the BH Sutton  
Chapter 11 bankruptcy auction was held before me  
on December 13, 2016.

That the within testimony was  
stenographically recorded by myself, to the best  
of my ability, and is a true and accurate record  
of the proceedings.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 30th day of December, 2016.

Judi Gallop

----- JUDI GALLOP -----



1 E R R A T A

2 I wish to make the following changes, for the  
3 following reasons:

4

5 PAGE LINE

6 ----- CHANGE:-----

7 REASON:-----

8 ----- CHANGE:-----

9 REASON:-----

10 ----- CHANGE:-----

11 REASON:-----

12 ----- CHANGE:-----

13 REASON:-----

14 ----- CHANGE:-----

15 REASON:-----

16 ----- CHANGE:-----

17 REASON:-----

18 ----- CHANGE:-----

19 REASON:-----

20 ----- CHANGE:-----

21 REASON:-----

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23 -----

24 WITNESS' SIGNATURE

DATE

25



<hr/> <p><b>1</b></p> <p><b>10001</b> 2:20</p> <p><b>10017</b> 3:14</p> <p><b>10022</b> 1:12 2:22 3:20 5:16</p> <p><b>10036</b> 2:9</p> <p><b>101</b> 3:10</p> <p><b>10166</b> 3:7</p> <p><b>10178</b> 3:10</p> <p><b>10281</b> 3:4</p> <p><b>10464</b> 2:16</p> <p><b>11</b> 1:9 4:1 5:1 6:1 7:1,21,24 8:1,7,13,14,21 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:11</p> <p><b>11:48</b> 1:14</p> <p><b>11231</b> 3:17</p> <p><b>11556</b> 2:14</p> <p><b>1177</b> 2:8</p> <p><b>11793</b> 2:5</p> <p><b>12:08</b> 15:13</p> <p><b>1201</b> 2:13</p> <p><b>129</b> 6:19</p> <p><b>13</b> 1:13 16:12</p> <p><b>134</b> 2:20</p> <p><b>14</b> 8:15</p> <p><b>16-10455-(SHL</b> 1:9</p> <p><b>19</b> 7:9</p> <hr/> <p><b>2</b></p> <p><b>2</b> 12:4,7</p> <p><b>20</b> 7:3,18</p> <p><b>200</b> 3:3,7</p> <p><b>2015</b> 7:18</p> <p><b>2016</b> 1:13 8:15,16,17 11:23 12:4 16:12,20</p> <p><b>2017</b> 8:21</p> <p><b>22</b> 7:4 8:16</p> <p><b>2602</b> 3:10</p> <p><b>26th</b> 2:20</p> <p><b>29</b> 6:23</p> <hr/> <p><b>3</b></p>	<p><b>30</b> 6:15</p> <p><b>30th</b> 3:3 16:20</p> <p><b>31</b> 6:9</p> <p><b>33</b> 6:9</p> <p><b>330</b> 3:13</p> <p><b>3305</b> 2:4</p> <p><b>36</b> 5:23</p> <p><b>363(b),(d),(f),(k</b> 8:6</p> <p><b>37</b> 6:5</p> <p><b>38th</b> 1:12 3:20</p> <p><b>3rd</b> 1:12</p> <hr/> <p><b>4</b></p> <p><b>422</b> 6:4</p> <p><b>426</b> 5:22 9:17 10:2</p> <p><b>428</b> 5:15</p> <p><b>430</b> 5:15</p> <p><b>432</b> 5:16</p> <p><b>434</b> 6:8 9:16 10:2</p> <p><b>436</b> 6:8</p> <p><b>440</b> 6:14</p> <p><b>442</b> 6:18</p> <p><b>444-446</b> 6:22</p> <p><b>455</b> 7:8</p> <p><b>461</b> 7:2,12</p> <p><b>481</b> 2:16</p> <hr/> <p><b>5</b></p> <p><b>5</b> 8:17 12:3</p> <p><b>505</b> 2:22</p> <p><b>57th</b> 7:3,8,12</p> <p><b>58</b> 1:6,7 2:7 4:16 7:23 8:11 9:18 11:3,15,17 12:16,22,23 13:10,19 14:18 15:3</p> <p><b>58th</b> 5:16,22 6:4,8,14,18,22 7:2</p> <hr/> <p><b>6</b></p> <p><b>605</b> 2:20</p> <hr/> <p><b>7</b></p> <p><b>75</b> 3:17</p> <hr/> <p><b>8</b></p>	<p><b>800</b> 1:12 3:20</p> <hr/> <p><b>9</b></p> <p><b>9</b> 11:23</p> <hr/> <p><b>A</b></p> <p><b>a.m</b> 1:14 8:21</p> <p><b>ABIE</b> 3:22</p> <p><b>ability</b> 16:16</p> <p><b>accurate</b> 16:16</p> <p><b>accurately</b> 10:4</p> <p><b>acknowledge</b> 10:14</p> <p><b>acknowledged</b> 11:21</p> <p><b>acquisition</b> 7:11</p> <p><b>Adam</b> 2:10 10:6</p> <p><b>addition</b> 11:20</p> <p><b>administered</b> 1:10 7:25</p> <p><b>agreement</b> 7:18 11:22,24 12:4,10</p> <p><b>agreements</b> 5:21,22,24 10:20</p> <p><b>air</b> 7:17</p> <p><b>allow</b> 7:11</p> <p><b>am</b> 14:12</p> <p><b>amend</b> 12:7</p> <p><b>Americas</b> 2:8</p> <p><b>amount</b> 9:19 12:5</p> <p><b>and/or</b> 5:18</p> <p><b>anybody</b> 11:7</p> <p><b>anyone</b> 13:22</p> <p><b>anything</b> 13:24 14:23</p> <p><b>apologize</b> 7:4 8:10</p> <p><b>appearance</b> 4:5</p> <p><b>Appearances</b> 2:25</p> <p><b>apply</b> 12:13</p> <p><b>appointed</b> 8:13</p> <p><b>appointing</b> 10:9</p> <p><b>assets</b> 5:13,14 7:19 8:4</p> <p><b>Associates</b> 2:8 4:17 7:24 8:11 9:19 11:15,17 12:16,24 13:10,20 14:19 15:3</p> <p><b>Associate's</b> 11:3</p> <p><b>assumption</b> 9:14,15</p>	<p><b>10:19</b></p> <p><b>Attorney</b> 3:6</p> <p><b>Attorneys</b> 2:4,7,12 3:2</p> <p><b>auction</b> 4:1,3,13 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1,5,8 16:11</p> <p><b>authorized</b> 9:21</p> <p><b>available</b> 5:18</p> <p><b>Avenue</b> 1:12 2:4,8,16,22 3:7,10,13,20</p> <p><b>aware</b> 9:7</p> <hr/> <p><b>B</b></p> <p><b>backup</b> 15:3</p> <p><b>BALL</b> 2:11</p> <p><b>bankruptcy</b> 1:2 2:17 4:9 5:5,6 7:22,24 8:2,5 9:21,22 16:11</p> <p><b>BAR-OR</b> 3:23</p> <p><b>BARRY</b> 3:4</p> <p><b>BAUHOUSE</b> 2:19</p> <p><b>behalf</b> 4:23,24 10:7</p> <p><b>Beninati</b> 2:17 4:7,10,11 8:25 9:4,7 14:11,12,15,16,20 15:11</p> <p><b>best</b> 16:15</p> <p><b>BH</b> 1:5 2:17 4:1,9 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:10</p> <p><b>bid</b> 9:9,10,11,18,20,23 10:13,14,15,16,22 11:3,9,11,15,16,19,22, 23 12:4,5,10,15,16,18,23 13:2,4,5,10,12,14,15, 19,20,21,22,23 14:3,4,18 15:7</p> <p><b>bidder</b> 15:2,4,10</p> <p><b>bidders</b> 10:3 11:5</p> <p><b>bidding</b> 12:13 14:9,17,22,23</p> <p><b>bids</b> 9:9 10:4 11:2 14:7,14</p> <p><b>bit</b> 12:7</p> <p><b>break</b> 11:7,8</p>
---	--	---	---



<b>brokers</b> 4:23 10:10 <b>Bronx</b> 2:16 <b>Brooklyn</b> 3:17 <b>buyer</b> 8:9 10:11 <b>buyer's</b> 9:13,24 10:17 <hr/> <b>C</b> <hr/> <b>Calico</b> 4:15 <b>Capital</b> 1:11 3:15 <b>case</b> 1:9 7:22 10:10 <b>cases</b> 7:25 8:13 <b>Center</b> 3:3 <b>certain</b> 5:21,24 6:10 7:17 <b>CERTIFICATION</b> 16:2 <b>certify</b> 16:10 <b>CHANGE</b> 17:6,8,10,12,14,16,18,20 <b>changes</b> 17:2 <b>Chapter</b> 1:9 4:1 5:1 6:1 7:1,21,24 8:1,7,13,14 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:11 <b>CHRIS</b> 2:21 <b>clear</b> 5:10 <b>client</b> 15:9 <b>close</b> 15:10 <b>closed</b> 14:22 15:6,9 <b>Code</b> 8:5 9:21 <b>committee</b> 2:12 7:23 8:10,12 14:24 <b>Company</b> 1:5,6,7 <b>competing</b> 15:7 <b>conditions</b> 4:13,20,21 5:8 9:2 11:14,21 12:9 <b>conducted</b> 8:5,17 <b>confirmation</b> 8:7,20 <b>connection</b> 5:4 7:22 <b>consistent</b> 11:24 <b>construction</b> 5:24 6:10 <b>contained</b> 5:21 <b>continued</b> 2:25 <b>contract</b> 9:15,16,17,25 10:2	<b>contribution</b> 8:23 <b>Cornell</b> 3:16 4:21 9:10 10:21 11:4,11 12:18 13:5,16 14:2 15:4 <b>COUNTY</b> 16:6 <b>court</b> 1:2 4:5 5:6 8:2 9:22 15:2 <b>credit</b> 9:20 10:13,16 11:22,23 12:4,5,7,10 13:2,12 <b>creditors</b> 2:13 7:23 8:12 14:24 <b>currently</b> 8:20 9:3 10:25 13:18,24 <hr/> <b>D</b> <hr/> <b>DATE</b> 17:24 <b>dated</b> 7:18 8:15 11:23 12:3 <b>David</b> 3:22 4:23 <b>day</b> 16:20 <b>debtor</b> 14:9 <b>debtors</b> 5:18,19 <b>debtor's</b> 7:24 14:10 <b>Debtors</b> 1:8 2:4 <b>December</b> 1:13 8:17 11:23 12:3 16:12,20 <b>decision</b> 9:22 <b>defined</b> 11:24 <b>Delaware</b> 1:5,6 <b>depending</b> 10:12 <b>describe</b> 10:4 <b>described</b> 10:22 <b>development</b> 5:17 6:2,7,12,17,21,25 7:7,12,16 <b>Director</b> 3:15,21,22 <b>disconnect</b> 15:11 <b>District</b> 1:2 5:7 8:3 <b>dollar</b> 10:15,16 11:10,16,19 12:15,18,23 13:4,5,10,14,15,19,21,23 14:4,18 <b>dollars</b> 8:24 9:12,20,23 11:4,10 12:6,8,9,17 13:2,12,22 14:10	<b>done</b> 10:8 14:23 <b>DRAGHI</b> 2:14 14:25 <b>during</b> 11:6 <hr/> <b>E</b> <hr/> <b>earlier</b> 12:2 <b>easements</b> 5:20 <b>East</b> 5:16,22 6:4,8,14,18,22 7:2,3,8,12 <b>EDERER</b> 2:11 <b>eight</b> 5:8 7:8 8:23 <b>eighty</b> 9:19,23 10:14,16 11:3 12:6,8 <b>eighty-five</b> 6:2 13:4,5 14:3 <b>eighty-four</b> 12:23 13:2 <b>eighty-one</b> 11:9,10 <b>eighty-seven</b> 13:14,15,20,21 <b>eighty-six</b> 13:9,12,19,23 14:9,18 <b>eighty-three</b> 6:24 12:17,18 <b>eighty-two</b> 11:16,19 12:8,15 <b>eleven</b> 8:21 <b>else</b> 15:6 <b>ESQ</b> 2:5,6,9,10,14,15 3:4,8 <b>estate</b> 2:18 3:9 4:8 <b>estates</b> 4:9 5:5 <b>Everybody</b> 4:3 <b>everything</b> 9:2 <b>exactly</b> 5:3 <b>executed</b> 4:19,21 5:9 <hr/> <b>F</b> <hr/> <b>feet</b> 6:2,7,12,17,21,25 7:6,15 <b>fifteen</b> 7:15 <b>fifty</b> 6:6 <b>fifty-seven</b> 7:14 <b>fifty-six</b> 6:16 <b>filed</b> 7:21 8:8,14,22	<b>Financial</b> 3:3 <b>first</b> 9:9 11:9 <b>Fisher</b> 9:15,25 <b>five</b> 6:16,18,24 9:13,24 <b>Floor</b> 1:12 3:3,20 <b>forty-two</b> 6:12 <b>FRANKEL</b> 2:7 <hr/> <b>G</b> <hr/> <b>GALLOP</b> 16:8,23 <b>GAMMA</b> 3:9 <b>Gemini</b> 3:6 7:13 <b>govern</b> 5:13 <b>Group</b> 2:19 4:15 <hr/> <b>H</b> <hr/> <b>Hager</b> 3:18 10:24 11:12 12:20 13:7,17 14:5 <b>HAMMERMAN</b> 2:10 <b>hand</b> 4:6 16:20 <b>HARVEY</b> 3:8 <b>HASTINGS</b> 3:6 <b>haven't</b> 4:6 10:8 13:24 <b>heard</b> 13:24 14:13,15 <b>hearing</b> 8:20 10:23 <b>held</b> 16:11 <b>HERBST</b> 2:3 <b>hereby</b> 16:10 <b>hereunto</b> 16:19 <b>higher</b> 13:22 14:3 15:7 <b>highest</b> 15:9 <b>HOLECEK</b> 2:6 <b>HOLLY</b> 2:6 <b>hundred</b> 5:25 6:6,11,16,20,24 7:6,15 9:12 <b>Huntington</b> 3:17 <hr/> <b>I</b> <hr/> <b>ILLUZZI</b> 2:24 <b>I'm</b> 5:2,7 9:7 12:21 13:3,8,13 14:8 15:11 <b>includes</b> 9:23 <b>including</b> 5:20,23 6:5,10,15,19,23
--	---	--	--



7:5,9,14 <b>inclusionary</b> 7:16,17 <b>increase</b> 12:7,25 13:11 14:3 <b>interest</b> 5:19 <b>INVESTMENT</b> 3:19 <b>Isaac</b> 3:18 11:12 <b>it's</b> 10:12  <hr/> <b>J</b> <hr/> <b>January</b> 7:18 8:21 <b>Jerusalem</b> 2:4 <b>Joe</b> 9:4 <b>JOHN</b> 2:24 <b>joint</b> 8:14,21 11:25 12:3 <b>jointly</b> 1:10 7:25 8:13 <b>JONATHAN</b> 3:11 <b>Jones</b> 2:21 3:2,13 4:24 <b>Joseph</b> 2:5,17 4:7 <b>JOY</b> 2:9 <b>JUDI</b> 16:8,23  <hr/> <b>K</b> <hr/> <b>KALIKOW</b> 3:11 <b>KASSIN</b> 3:22 <b>Keith</b> 3:14 4:24 <b>known</b> 5:15 <b>Kramer</b> 2:7 10:6 <b>Kurland</b> 3:14 4:24  <hr/> <b>L</b> <hr/> <b>LaMONICA</b> 2:3 <b>Lang</b> 3:2,13 4:25 <b>lasalle</b> 3:13 <b>LaSalle</b> 4:25 <b>Leaving</b> 11:13 <b>lender</b> 4:14,18 8:22 10:7,18 11:22 12:6,25 13:11 <b>Levin</b> 2:7 10:6 <b>Liability</b> 1:5,6,7 <b>Liberty</b> 3:3 <b>license</b> 5:24 <b>licenses</b> 5:20 6:10	<b>LICHTENBERG</b> 3:2,4 <b>LIEBERMAN</b> 3:21 <b>Limited</b> 1:5,6,7 <b>LINE</b> 17:5 <b>LIPA</b> 3:21 <b>liquidation</b> 7:21 8:15,18 <b>listened</b> 8:25 <b>LLC</b> 1:5,6,7 2:8 3:16 4:17,22 7:14 <b>LLP</b> 2:3,7,12 3:6 <b>located</b> 5:15 <b>Lot</b> 5:23 6:5,15,19,23 7:3,4,9 <b>Lots</b> 6:9  <hr/> <b>M</b> <hr/> <b>Madison</b> 3:13 <b>Management</b> 3:16 4:22 9:11 11:5,11 12:19 15:4 <b>Managing</b> 3:14,21 <b>MANINSCALSCO</b> 14:6 <b>Maniscalco</b> 2:3,5 4:2,12,19 9:5,8 10:21,25 11:13,25 12:14,21 13:3,8,13,18 14:13,21 15:8 <b>Markets</b> 3:15 <b>material</b> 8:19 <b>math</b> 10:8 <b>Meridian</b> 1:11 3:19 4:24 <b>Mezz</b> 1:5 4:9 <b>MILLER</b> 2:11 <b>millión</b> 8:24 9:12,19,23 10:14,16 11:3,9,10,16,19 12:6,8,15,17,18,23 13:2,4,5,9,12,14,15,1 9,21,22,23 14:4,10,18 <b>modification</b> 8:19 9:6 <b>modified</b> 8:15 <b>myself</b> 16:15  <hr/> <b>N</b> <hr/> <b>NAFTALIS</b> 2:7 <b>NATAN</b> 2:10	<b>net</b> 9:23 <b>NEVELOFF</b> 2:9 <b>NGUYEN</b> 2:23 <b>Notary</b> 16:9 <b>noted</b> 15:13 <b>notice</b> 4:4 <b>November</b> 8:15,16  <hr/> <b>O</b> <hr/> <b>obligations</b> 9:14,16,17 10:17,19 <b>official</b> 2:12 8:10,12 <b>okay</b> 4:15 <b>order</b> 9:21 10:8,9 <b>orders</b> 10:18 <b>owned</b> 5:17 <b>OWNER</b> 1:6,7 <b>owners</b> 5:22  <hr/> <b>P</b> <hr/> <b>p.m</b> 15:13 <b>page</b> 2:25 17:5 <b>pages</b> 5:9 <b>Park</b> 2:22 3:7,10 <b>party</b> 10:12 <b>pass-through</b> 7:10 <b>PAUL</b> 3:6 <b>payment</b> 10:16 <b>pending</b> 5:5 <b>percent</b> 9:14,24 <b>phone</b> 4:7 14:11 <b>plan</b> 7:21 8:7,14,18,19,22 11:25 12:3 <b>Plaza</b> 2:13 <b>please</b> 4:6 <b>PLLC</b> 3:2 <b>plus</b> 9:12,14,15,16,24,25 10:2 <b>point</b> 8:23 9:13,24 12:22 14:6,17,23 15:6,10 <b>potentially</b> 8:23 <b>precisely</b> 5:10	<b>premium</b> 9:13,25 10:11,17 <b>presented</b> 10:5,22 15:2 <b>President</b> 3:11 <b>previously</b> 11:14 <b>prior</b> 10:22 <b>proceed</b> 5:2 <b>proceedings</b> 16:17 <b>process</b> 4:3 11:6 <b>properties</b> 5:15 <b>property</b> 7:10 <b>proposed</b> 8:14 <b>provide</b> 4:4 <b>provides</b> 8:22 <b>provisions</b> 10:10 <b>Public</b> 16:9 <b>purchase</b> 7:17 <b>pursuant</b> 7:16,20 8:5,18  <hr/> <b>R</b> <hr/> <b>raise</b> 4:6 <b>re</b> 1:4 <b>ready</b> 4:2 <b>real</b> 3:9 5:14 <b>Realty</b> 3:16 4:21 9:10 10:21 11:4,11 12:19 13:6,16 14:2 15:4 <b>REASON</b> 17:7,9,11,13,15,17,19 ,21 <b>reasons</b> 17:3 <b>receipt</b> 11:21 <b>received</b> 9:9,10,18 <b>recommend</b> 14:8 <b>record</b> 4:16 5:3,9 8:9,11 9:8 11:14,20 12:12 15:11 16:16 <b>recorded</b> 16:15 <b>refer</b> 4:17 <b>reference</b> 12:5 <b>referred</b> 11:25 <b>relates</b> 10:17 <b>relating</b> 10:11 <b>remain</b> 12:10
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<b>reporter</b> 4:5 16:8 <b>representative</b> 2:18 4:8 14:10 <b>Residential</b> 3:6 7:13 <b>retention</b> 10:18 <b>RICHARD</b> 3:11 <b>rights</b> 5:17,20 6:3,7,13,17,21,25 7:7,12,16,17 <b>Ring</b> 2:16 <b>Rogoff</b> 2:10 4:15,16 10:6 11:18 12:25 13:11 15:5,9 <b>room</b> 4:4 <b>RXR</b> 2:13 <hr/> <b>S</b> <hr/> <b>sake</b> 12:11 <b>sale</b> 5:12,13 7:20 8:4,17 <b>SALES</b> 3:19 <b>Schechtman</b> 3:22 4:23 <b>scheduled</b> 8:20 <b>SCHLEIN</b> 2:15 <b>Section</b> 12:4,7 <b>sections</b> 8:5 <b>selling</b> 5:4,11 7:20 9:3 <b>seven</b> 6:6 7:2,15 9:13,24 <b>SHARESTEIN</b> 2:12 <b>shorthand</b> 16:8 <b>SIGNATURE</b> 17:24 <b>signed</b> 4:14 <b>similar</b> 11:2 <b>simply</b> 10:13 <b>six</b> 6:22 <b>sixteen</b> 6:20 <b>sixty-seven</b> 6:20 9:11 <b>sold</b> 5:14 <b>Southern</b> 1:2 5:6 8:2 <b>speak</b> 11:7 <b>speaks</b> 10:8 <b>square</b> 6:2,6,12,16,20,25 7:6,15	<b>ss</b> 16:5 <b>STANLEY</b> 2:15 <b>start</b> 4:2,12 <b>State</b> 16:4,9 <b>statement</b> 12:12 <b>States</b> 1:2 5:6 8:2 <b>stenographically</b> 16:15 <b>step</b> 4:6 <b>stop</b> 14:9,17 <b>Street</b> 2:20 3:3,17 5:16,23 6:4,9,14,18,22 7:2,3,9,12 <b>STRICKON</b> 3:8 <b>subject</b> 8:6 <b>submitted</b> 11:22 15:6 <b>subsequent</b> 12:13 <b>substantially</b> 11:2 <b>successful</b> 14:25 <b>SUFFOLK</b> 16:6 <b>Suite</b> 2:20 3:10 <b>supplemented</b> 8:16 <b>sure</b> 4:4,11 <b>Sutton</b> 1:5,6,7 2:7,17 4:1,9,14,16,18 5:1 6:1 7:1,23 8:1,11 9:1,18 10:1 11:1,3,15,16 12:1,16,22,23 13:1,10,19 14:1,18 15:1,3 16:10 <hr/> <b>T</b> <hr/> <b>TAL</b> 3:23 <b>telephone</b> 2:18 <b>terms</b> 4:13,20,21 5:8,12 9:2 11:20 12:9 <b>testimony</b> 16:14 <b>Thank</b> 12:14 15:12 <b>third</b> 3:20 10:12 <b>thirteen</b> 5:25 6:16 <b>thirty-three</b> 6:11 <b>THOMAS</b> 2:14 <b>thousand</b> 5:25 6:6,11,16,20,24 7:5,14 9:12	<b>title</b> 5:19 <b>today</b> 5:4,11 8:17 <b>top</b> 10:15 <b>transaction</b> 10:12,13 <b>true</b> 16:16 <b>twenty-eight</b> 7:6 <b>twenty-one</b> 6:6 <b>twenty-three</b> 7:5 <b>twenty-two</b> 6:24 <b>twice</b> 13:25 14:8,22 <hr/> <b>U</b> <hr/> <b>Uniondale</b> 2:14 <b>United</b> 1:2 5:6 8:2 <b>unsecured</b> 2:13 7:23 8:10,12 <b>unused</b> 6:2,7,12,17,21,25 7:6,11 <b>upon</b> 10:12 <b>utilized</b> 9:20 <hr/> <b>V</b> <hr/> <b>VAN</b> 2:23 <b>various</b> 10:20 <hr/> <b>W</b> <hr/> <b>Wantagh</b> 2:5 <b>West</b> 2:20 <b>WESTERMAN</b> 2:11 <b>WHEREOF</b> 16:19 <b>wish</b> 17:2 <b>WITNESS</b> 16:19 17:24 <b>World</b> 3:3 <hr/> <b>Y</b> <hr/> <b>York</b> 1:2,7,12 2:5,9,14,16,20,22 3:4,7,10,14,17,20 5:7,16,23 6:5,9,15,19,23 7:3,4,9,13 8:3 16:4,10 <hr/> <b>Z</b> <hr/> <b>zoning</b> 5:17 <b>ZUCKER</b> 2:11
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